



March 27, 2007

## H.R. 835 - Hawaiian Homeownership Opportunity Act of 2007

### Floor Situation

H.R. 835 is being considered on the floor pursuant to a closed rule. The rule:

- Provides one hour of general debate in the House equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Financial Services.
- Waives all points of order against the bill and against its consideration except for clauses 9 (earmarks) and 10 (PAYGO) of Rule XXI.
- Contains one motion to recommit with or without instructions.

This legislation was introduced by Representative Neil Abercrombie (D-HI) on February 6, 2007. The bill was ordered to be reported from the Committee on Financial Services, by voice vote, on February 14, 2007.

On March 21, 2007, the House of Representatives did not agree to the bill, brought to the floor under suspension of the rules, by a recorded vote of 263 – 162 ([Roll no. 173](#)).

	<a href="#">YEAS</a>	<a href="#">NAYS</a>	<b>PRES</b>	<a href="#">NV</a>
REPUBLICAN	34	162		5
DEMOCRATIC	228			4
INDEPENDENT				
<b>TOTALS</b>	<b>262</b>	<b>162</b>		<b>9</b>

H.R. 835 is expected to be considered on the floor on March 27, 2007.

*\*Note: In the 109<sup>th</sup> Congress, Rep. Bob Ney (R-OH) introduced identical legislation, H.R. 5851, which was reported out of the Committee on Financial Services, by voice vote, on September 28, 2006. The House of Representatives did not take up the bill.*

### Summary

H.R. 835 reauthorizes, for 5 years, Title VIII of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). The bill also grants access to 2 loan guarantee programs for Native Hawaiians.

The Hawaiian Ownership Opportunity Act of 2007 reauthorizes Title VIII of NAHASDA through 2012. Title VIII is a block grant that provides funding for the Department of Hawaiian Home Lands (DHHL), Habitat for Humanity Hawaii, and other programs. The DHHL's objective is to provide housing assistance to low-income Native Hawaiian families living on Hawaiian home lands. Title VIII was authorized in 2000 for 5 years and has been reauthorized since then for a year at a time.

The bill provides Native Hawaiians with access to 2 loan guarantee programs: Section 184(a) loan guarantee program and NAHASDA Title VI.

The Section 184(a) loan guarantee program is amended to provide funding through fiscal year 2012. The bill amends current language to allow Native Hawaiian families to apply for these loans without first having been turned down for a loan by a private lender. Section 184(a) loans, pursuant to H.R. 835, may be used to construct, acquire, refinance, or rehabilitate 1- to 4-family homes that are standard housing and are located on Hawaiian Home Lands. If H.R. 835 is signed into law, Section 184(a) loans could not be used for refinancing.

The Title VI loan guarantee program (Federal Guarantees for the Financing of Tribal Housing Activities) of NAHASDA is reauthorized through 2012 and, as amended by H.R. 835, allows DHHL to participate in this program. By doing this, the DHHL will be eligible for loan guarantee authority. DHHL will be able to borrow or issue debt for a maximum of 5 times its annual allocation for affordable housing activities.

## **Views**

### **Constitutional Concerns**

"H.R. 835 would confer on Native Hawaiians an arrangement like that between the federal government and American Indian tribes. But in the *Rice v. Cayetano* decision, the U.S. Supreme Court ruled that Native Hawaiians are not comparable to American Indian tribes, and suggested that special legal privileges for Native Hawaiians are rightly unconstitutional. The Court wrote, 'The tribal concept simply has no place in the context of Hawaiian history.'" – [Leader Alert](#) issued on March 21, 2007.

## **Background**

### **Hawaiian Home Lands**

On July 9, 1921, the United States Congress passed the Hawaiian Homes Commission Act (HHCA). HHCA set aside roughly 200,000 acres in the Territory of Hawai'i. The purpose of the Act was to establish a permanent land base for the benefit and use of native Hawaiians, upon which they may live, farm, ranch, and otherwise engage in commercial, industrial, or other activities.

In 1960, the Department of Hawaiian Home Lands (DHHL) was created to administer the programs under HHCA. DHHL's mission is to place eligible Hawaiians on the reserved lands and to develop and deliver land to native Hawaiians.

#### Native American Housing Assistance and Self-Determination Act of 1996

NAHASDA provided a reorganization of the housing assistance provided by the Department of Housing and Urban Development by establishing the Indian Housing Block Grant (IHBG). The IHBG provides funds directly to tribes and the tribes then determine how to use the funds for housing services. Title VIII of NAHASDA was amended in 2000 to allow Native Hawaiians to receive block grant funding and was authorized for 5 years.

#### Section 184(a) Loan Guarantee Program

Section 184(a) of the Housing and Community Development Act of 1992 provided access to sources of private financing for Indian families and Indian housing authorities who otherwise could not acquire housing financing because of the unique legal status of Indian trust land. The Secretary was restricted in financing guarantees of amounts not to exceed 100 percent of the unpaid principal and interest due on any loan eligible made to an Indian family or Indian housing authority.

*\*Note: Pursuant to H.R. 835, native Hawaiians will be eligible for the same sources of private financing as Indian families.*

#### Title VI Loan Guarantee Program of NAHASDA

Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 permits the Secretary to prescribe, guarantee, and make commitments to guarantee the notes or other obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing affordable housing activities.

Under this title, a private lender is responsible for the financing and the Department of Housing and Urban Development grants a 95% guarantee of the interest and principal due in the event of a default payment.

#### **CBO Estimate**

CBO estimates that appropriation of the amounts necessary to implement H.R. 835 would cost \$39 million over the 2008-2012 period. Enacting H.R. 835 would not affect direct spending or revenues.

#### **Staff Contact**

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